



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/423,207 11/03/99 ANDERSSON

T 027650-836

IM22/0213
BURNS DOANE SWECKER & MATHIS
PO BOX 1404
ALEXANDRIA VA 22313-1404

EXAMINER

PATTERSON, M

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 02/13/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/423,207

Applicant(s)

ANDERSSON ET AL.

Examiner

Marc A Patterson

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☐ Responsive to communication(s) filed on 03 November 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☒ received.
2. ☐ received in Application No. (Series Code / Serial Number) _____.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____.

Art Unit: 1772

DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 – 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohn et al. in view of Nakagawa et al. Kohn et al. disclose an extruded / blow molded bottle for metered dispensing of a liquid product comprising an intermediate layer of foamed plastic and outer, solid layers of plastic. The foamed and non – foamed layers may be the same, and the foamed material is 10 – 30% less dense than the same material in the non – foamed state. The three layers may be high density polyethylene. The two outer, surrounding layers have substantially the same layer thickness (column 1, lines 50 – 67; column 2, lines 1 – 12). ~~The invention of Kohn et al. differs from the claimed invention in that the intermediate layer does not comprise a blend of high and low density polyethylene.~~

3. Nakagawa et al. teach that a bottle having the same three – layered structure may be fabricated having low density polyethylene as the intermediate layer (column 5, lines 27 – 51; column 10, lines 8 – 34). It would therefore be obvious to one of ordinary skill in the art to blend high and low density polyethylene in the intermediate layer of the invention of Kohn et al. if it was desired to obtain an intermediate layer having a density lower than that of the layer disclosed by Kohn et al. The mixing ratio of the two polymers, as well as the thickness (and therefore the weight percent) of the foamed layer, are design optimizations, and it would have been obvious to

Art Unit: 1772

one of ordinary skill in the art to vary these parameters in order to obtain the desired density for the intermediate layer and mechanical properties for the resulting bottle.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's acting supervisor, Rena Dye, can be reached at (703) 308-4331. FAX communications should be sent to (703) 305-3599. FAXs received after 4 P.M. will not be processed until the following business day.

M.A.P.

M-a-P


HAROLD PYON
SUPERVISORY PATENT EXAMINER

1772

2/9/01